

October 24, 2011

Sabrina Forrest  
Site Assessment Manager  
U.S. Environmental Protection Agency  
1595 Wynkoop St.  
Denver, CO 80202-1129

Dear Ms. Forrest,

We recently became aware that the United States EPA is in the process of turning Cement Creek and, perhaps, other areas into a Superfund Site. As residents of Silverton, Colorado, we strongly oppose EPA's efforts. (See attached list.)

Environmental issues in the Silverton area are a matter of local concern. As such, decisions as to how to address those issues should be made by residents who live and work in the area and who are in the best position to assess costs and benefits associated with local activities. We have a local stakeholder group (Animas River Stakeholders Group or ASRG) that is dedicated to addressing water quality and other environmental issues. The ASRG is committed to finding practical and cooperative solutions to existing water quality issues and is not handcuffed by the burdensome procedures and inflexible cleanup standards imposed upon EPA by Superfund. We would most adamantly rather see money go into the ground and not into the black hole of Superfund.

Please leave this matter to the ASRG and local citizens. They, and not the federal government, are in the best position to find sensible and cost effective solutions to this local issue.

Sincerely,



Ronald J. Renowden  
Barbara J. Renowden

### Superfund - Not the Right Vehicle

- Loss of Local Control: The problems associated with environmental conditions in the Animas Basin are inherently local in nature. Once a site is listed on the NPL, EPA assumes primary authority over cleanup priorities and methodologies. The ability for local stakeholders to make key decisions is significantly diminished once the area becomes a Superfund Site.
- Superfund is Inflexible: Superfund cleanup standards are stringent and inflexible. The statute provides no mechanism for taking the potential future land use of a site into account in determining the extent of cleanup that is required. The cost of cleaning up a site for unrestricted human use is often not proportional to the actual protection needed. This discourages voluntary cooperation in the cleanup process.
- The Superfund Cleanup Process is Burdensome and Inefficient: By statute, EPA is required to follow numerous expensive and time-consuming steps before cleanup can begin. This includes, but is not limited to, preparing a Remedial Investigation / Feasibility Study ("RI/FS"), Records of Decision addressing various potential alternatives, and Remedial Design / Remedial Action Plans. Each of these steps is burdensome. For example, the RI/FS phase requires scoping, site characterization, development of alternatives, screening of alternatives, treatability investigations and final detailed analysis. Money would be better spent "on the ground" rather than on these phases.
- Superfund is Expensive: Superfund is notoriously expensive. Private parties have the incentive and ability to complete remedial activities more efficiently than EPA.
- The Superfund Designation Will Discourage Voluntary Activities: Parties are less likely to engage in voluntary activities for fear of triggering Superfund liability.
- The Superfund Designation May Last a Lifetime and May Expand Geographically over Time: Once a site is listed on the NPL, it is uncertain as to how long the "Superfund" designation may last or whether additional areas will be added to the designation. For example, in the Coeur d'Alene Basin in Idaho, the initial NPL listing occurred in 1983 and began with the listing of a 21 square mile area. In 1988, the EPA expanded the site to encompass hundreds of square miles. The Superfund designation in the area remains and is expected to remain for many decades.
- Stigma: Land values often suffer once the "Superfund" tag is placed on an area.
- Superfund Designation will Discourage Development: Once designated, developers will consider the potential for their development to contribute to, impact on, or be impacted by contamination. Experience in other areas has been that superfund designation is followed by decline in economic development of the area.
- Superfund Triggers Litigation: Faced with large and uncertain liability associated with Superfund, potentially responsible parties typically protect themselves by hiring lawyers. Thus, rather than encouraging the funding of on-the-ground activities, Superfund encourages legal gridlock, cleanup delay, and enormous legal costs.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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DENVER, CO 80202-1129  
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February 1, 2012

Ronald J. Renowden  
Barbara J. Renowden  
P.O. Box 195  
Silverton, CO 81433

RE: Upper Cement Creek, CO

Dear Mr. and Mrs. Renowden:

Thank you for your October 24, 2011 letter regarding Upper Cement Creek. We understand that you would like to see the watershed addressed by local citizens and the Animas River Stakeholder Group.

We have heard from a number of citizens and other stakeholders who have voiced interest in working collaboratively to address water quality in Upper Cement Creek. We'd like to assure you that the United States Environmental Protection Agency (EPA) has not made a decision concerning listing of the Upper Cement Creek area. The decision to propose a site for the National Priorities List (NPL) can only be made after a technical evaluation is completed to determine if the site is eligible. The EPA is just completing this technical evaluation. In addition, both the State and the EPA seek community support prior to a site being proposed for listing and the EPA wants the community to understand why we are looking at this option.

More than 15 years ago the EPA committed to a community-based environmental protection effort in San Juan County, and indicated that Superfund would not be used as long as progress was being made in improving water quality in the Animas River. Unfortunately, water quality has significantly degraded in the Animas River in the last five years. It is evident that historic mine waste in Cement Creek, a tributary of the Animas River, is having a negative impact on the Animas. These impacts are likely related to cessation of water treatment in Gladstone and plugging of the American Tunnel. The EPA has compared the last five years of data to earlier data sets that indicated improvements in water quality. The Animas River Stakeholder Group (ARSG) has summarized some of these data and the EPA is also evaluating these data. If experience in other mining impacted areas is any guide, the resources required for solutions to this sort of problem will be substantial, and long-term operation and maintenance of the solution or solutions may be required.

EPA is working with other federal agencies, the State, and local community members to identify options to reverse the degradation and improve water quality in the Animas River. It is too soon to make conclusions about how best to correct this condition. However, if the best solutions require substantial

and long-term resources, CERCLA process and the NPL may be the only means to assure that full resources available to the EPA can be committed. EPA is also limited in its ability to fund interim actions and long-term projects that require ongoing operations and maintenance.

The EPA looks forward to continuing the dialogue with you and other local community members regarding possible options to address water quality issues in Upper Cement Creek. If you would like to discuss this further, please contact me at 303-312-6607.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Holmes", with a stylized flourish extending from the end.

Michael Holmes  
Project Manager